

Embracing Regional Economic Diversity:

The Case for Local Minimum Wage Standards in New York State

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A Report from the State Senate Democratic Conference

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Background

Minimum wage laws establish a base level of pay that employers are required to pay certain covered employees. They were originally designed to create a minimum standard of living – a “floor” - to protect the health and well-being of employees, and to aid the lowest paid of the working population, who generally lacked sufficient bargaining power to secure for themselves a minimum subsistence wage.¹ In recent times, however, the minimum wage has become more of a “ceiling,” rather than a floor, by which large employers have deftly and gradually transferred their responsibility for adequately compensating their employees to the public sector.

This shift is particularly damaging to workers in states that have diverse, non-homogenous economies with significant geographic variations in basic cost of living standards. Like the nation as a whole, the cost of housing and a basic basket of economic goods and services can vary greatly from region to region within states – particularly in those that have diverse economies with regional concentrations of certain economic activities. And just as the national minimum wage may be adequate to cover the basic cost of living in some states while others have historically responded to their local economic requirements by raising their minimum wage above the standard set by Congress, many municipalities in states with diverse economies have recently been adjusting their minimum wage standards to meet local costs.

New York is one of those economically and regionally diverse states. Agricultural production, tourism, and related industries drive the local economy of the state’s rural areas; upstate urban and suburban areas are driven in part by the bio-technical and nano-technical sectors, research institutions and manufacturing; Long Island’s economy is characterized by the aviation industry, the science and technology sectors and tourism; and New York City is a microcosm of the global economy. Such diversity translates into wide variations in the local cost of living - living in New York City or on Long Island is far more expensive than it is in Jamestown or Ogdensburg. Consequently, what constitutes an adequate income in rural upstate areas falls woefully short for workers in Westchester County, New York City or Long Island. In short, with regard to an adequate minimum wage for the state’s low-wage workers, one size does not fit all.

Unlike states with similarly diverse economies, however, municipalities in New York are statutorily prohibited from implementing local wage standards that exceed the base rate set by the state Legislature. Consequently, low-wage workers in high-cost areas will continue to fall even further behind than their counterparts in relatively low-cost areas. Essentially, while the existing statewide rate constitutes a “ceiling” for all low-wage workers, those in high-cost areas are placed on a perpetually descending stairway to the basement. Contrary to what opponents of raising the minimum wage contend, the vast majority of these workers are not part-time young people. Nearly 90 percent are adults over the age of twenty, 56

¹ The Minimum Wage: An Overview. Legal Information Institute, Cornell University Law School. Available at http://www.law.cornell.edu/wex/minimum_wage.

percent are women, nearly half are workers of color, and over 43 percent have some college education.²

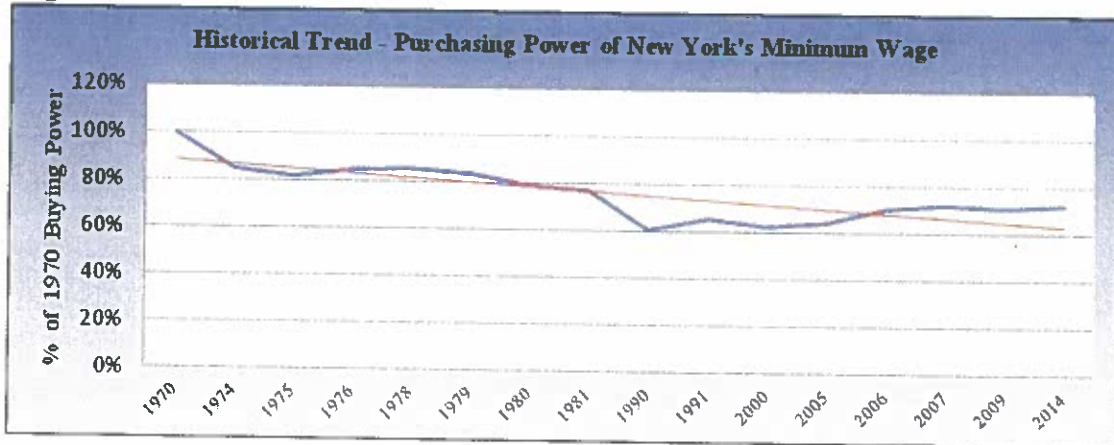
The solution is clear. The statutory prohibition on local minimum wage standards in New York must be lifted. By allowing localities to raise their minimum wage above the state level, the state minimum wage will no longer constitute a ceiling, but will be restored as a floor, to protect rather than restrict those at the bottom of the economic ladder. Only then can we ensure that those low-wage workers in high-cost areas, who do so many jobs essential to their local economies, will be able to afford to live in the communities where they work.

I. New York's Current Minimum Wage

For New York's minimum wage workers, the past forty years have been a constant, losing struggle to keep pace with rising costs, as their incomes steadily diminished and they dipped below the poverty level, in one of the richest states of the wealthiest nation in the world. Even with the raise to \$8.00/hour at the end of last year, the paycheck of today's low-wage worker will buy only 72 percent of what it did when it reached its peak purchasing power in 1970. At today's rate of \$8.00/hour, it would take a rate increase of \$3.11, or nearly 39 percent, to restore the purchasing power of the state's minimum wage to its 1970 level.

Figure 1 shows the decline in purchasing power for minimum wage earners in New York from 1962, when the hourly rate was raised from \$1.00 to \$1.15, to the present. While purchasing power, represented by the blue line, fluctuates as the rate is occasionally statutorily adjusted, the red line indicates the clear downward trend.

Figure 1



In 2012, the Senate Democratic Conference sponsored legislation that would have increased the rate to \$8.50 in 2013, \$9.25 in 2014, and link it annually to a regional Consumer Price

² Fair Minimum Wage Act of 2013: Restoring the Lost Value of the Minimum Wage Would Boost the Economy and the Incomes of 30 Million Workers in the U.S. Available at http://nelp.3cdn.net/d8f1aacb5847bd584c_gzm6bentv.pdf.

Index (CPI) thereafter. The bill also raised the wage for the state's "tip workers" and, perhaps most significantly, included a "non-preemption" clause that would allow localities to raise their rates above the state minimum.³ In April of that year, the Conference held a public forum on the bill, which drew testimony from labor organizations, progressive business leaders, academia, and religious organizations – all calling for a restoration of purchasing power for the state's lowest wage-earners and embracing the Conference's approach to indexing and non-preemption by state law on localities' ability to require the minimum wage workers within their jurisdiction receive wages that reflect the local cost of living.

II. The 2013-14 Enacted Budget: Unfinished Business

Despite such overwhelming support for the Democrats' comprehensive legislation, the increase that eventually emerged as part of the 2013-14 Enacted Budget fell woefully short of what is needed. The rate increased from \$7.25 to \$8.00 on December 31, 2013, will raise it again to \$8.75 on December 31, 2014, and finally to \$9.00 on December 31, 2015.⁴ While passage of the wage increase was generally supported by advocates for the working poor, the law was highly flawed in four essential ways. First, its failure to link the wage to inflation (indexing) ensures that the small gains made over the next two years will be largely erased just a few years later. Although inflation is projected to remain low for 2014 and 2015, averaging around 2.2 percent,⁵ today's minimum wage workers would fall further behind in the purchasing power of previous generations when the current law is fully implemented. This all but guarantees that the Legislature will have to revisit the minimum wage issue in just a few years, and the same advocacy groups will descend on Albany – those who call for raising the rate in the name of minimal survival, pitted against those who claim such a raise in the rate will destroy business and kill jobs.

"Today, after four years of economic growth, corporate profits, and stock prices have rarely been higher, and those at the top have never done better...But average wages have barely budged. Inequality has deepened. Upward mobility has stalled. The cold, hard fact is that even in the midst of recovery, too many Americans are working more than ever just to get by - let alone get ahead."

*President Barak Obama
2014 State of the Union Address*

Second, the new law failed to raise the rate for tip workers, whose minimum rate is lower than that of other wage earners, but who have traditionally received upward adjustments along with their full-wage counterparts. While the language directs the Commissioner of Labor to appoint a "Wage Board" to make recommendations for bringing tip workers into parity with

³ S.6335B (Espaillat)

⁴ Part P of Chapter 57 of the Laws of 2013.

⁵ Federal Reserve Bank of Philadelphia, available at <http://www.phil.frb.org/research-and-data/real-time-center/survey-of-professional-forecasters/2013/survq413.cfm>.

other minimum wage earners, no deadline is given by which the Board must be appointed and, to date, no such appointments have been made.

Third, buried in the budget's revenue bill was the "Minimum Wage Reimbursement Credit" (MWRC).⁶ Under its provisions, employers are compensated for the difference between the wages they were previously paying teenage workers (16-19 years of age) and the wages they are required to pay under each step increase of the minimum wage. For 2014, employers are compensated the entire difference between previous pay and the new \$8.00 rate. In 2015, employers will be compensated \$1.31 for such workers paid at the \$8.75 level, and for the years 2016-2018, it would pay employers \$1.35 an hour for such teenage workers paid at the \$9.00 an hour level.⁷

Inclusion of the MWRC was an indication of the power corporate interests wield in New York politics. The credit is essentially a taxpayer-funded subsidy to the state's minimum wage employers,⁸ among whom are the flagship stores for their respective industries – Wal-Mart and other big-box stores; and McDonald's and members of the fast food industry. The cost to taxpayers of this corporate give-away has been estimated at \$35 million in the 2015 tax year and then average \$65 million in each of the following three years.⁹

The MWRC is also the latest example of how major private sector employers have managed to shift the responsibility for the general welfare of their workers to the public sector. Academic observers began to take note of this shift more than a decade ago. In an examination of the effects of the relatively low wages paid by Wal-Mart had on the public safety net in California, a study found that, while unionized grocery workers in the San Francisco area earned an average of \$15.31 an hour, Wal-Mart employees earned 39 percent less, and were half as likely to have health benefits. At these low wages, many Wal-Mart workers who were unable to make ends meet developed a reliance on food stamps, Medi-Cal and subsidized housing.¹⁰

This shift has not been lost on elected officials from across the political spectrum. From the progressive side, a recent staff report by the U.S. House Committee on Education and the Workforce found that when low wages leave Wal-Mart workers unable to afford the necessities of life, taxpayers pick up the tab as public benefit programs make up the difference between Wal-Mart's low wages and the costs of subsistence. As the nation's largest private sector employer, Wal-Mart's business model suppresses wages throughout

⁶ Part EE of Chapter 59 of the Laws of 2013, which added a new Section 38 to the New York State Tax Law.

⁷ "The Many Problems with New York's Proposed Minimum Wage Reimbursement Credit." Fiscal Policy Institute. March 25, 2013. Available at <http://fiscalpolicy.org/the-many-problems-with-new-york%E2%80%99s-proposed-minimum-wage-reimbursement-credit>.

⁸ "Taxpayers to Subsidize NY's Higher Minimum Wage in Provision of Tentative State Budget." Associated Press. March 27, 2013. Available at <http://news.yahoo.com/taxpayers-subsidize-nys-higher-minimum-143533956.html>.

⁹ Precious, T. "Tax break, subsidizing minimum-wage hike more costly than estimated." *Buffalo News*. 4/1/2013. Available at http://www.buffalonews.com/20130401/tax_break_subsidizing_minimum_wage_hike_more_costly_than_estimated.html

¹⁰ Arindrajit, D. and Jacobs, K. "Hidden Cost of Wal-Mart Jobs: Use of Safety Net Programs by Wal-Mart Workers in California." University of California Labor Center. Briefing Paper Series. August 2004. Available at <http://laborcenter.berkeley.edu/retail/Wal-Mart.pdf>

the entire national retail sector.¹¹ From the corporate side, in New York's heated public debate over the minimum wage prior to passage of the 2013-14 Budget, Senate Majority Leader Dean Skelos argued that raising the minimum wage in New York would hurt workers because they would pay more in taxes and some might lose eligibility for Family Health Plus.¹²

Finally, while the 2013-14 Enacted Budget did include a modest increase in the state minimum wage, it did not include the non-preemption clause contained in the Democratic Conference's bill. While the state's minimum wage increased by 10 percent at the end of last year, and will increase another 12.5 percent by the end of 2015, it will not even approach an adequate wage level for workers in the more expensive areas in the state.

The irony here is two-fold. First, the most vehement supporters of keeping the minimum wage low are also among the most venomous critics of the big, tax-supported government programs that the low minimum wage augments. Second, those same opponents of big government interfering in local issues are also among the staunchest opponents non-preemption. In a state where the cost of living in one region can be more than double the cost of living in another, such inconsistencies are particularly glaring, as low-wage workers in high-cost areas try desperately to make ends meet. It is time to reverse the trend of corporate welfare and return to employers the responsibility of paying their employees wages that reflect the essential living costs of the areas in which they live.

III. The Dilemma of Regional Diversity

1. *One Size Does Not Fit All*

Because the cost of living differs widely across the country, many states have chosen to raise their state minimum wages above the current federal level of \$7.25 per hour to reflect those variations. Similarly, the cost of living can differ widely within states themselves.¹³ New York is no exception, with substantial variations in the cost of living across the state. At \$91,465, the cost of living for a family of four in the lowest cost urban area is only 43.2 percent of that for the highest cost urban area (\$211,645).¹⁴ Rental costs alone vary drastically between the state's metropolitan areas. A three-bedroom apartment in the Buffalo costs only 43.3 percent of what it costs in the New York City-Long Island metropolitan area (Figure 2).¹⁵ Variation by county is even greater, with that same

¹¹ *The Low-Wage Drag on Our Economy: Wal-Mart's Low Wages and Their Effect on Taxpayers and Economic Growth*. Democratic Staff of the U.S. House Committee on Education and the Workforce. May 2013. Available at <http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/Wal-MartReport-May2013.pdf>.

¹² <http://www.lohud.com/VideoNetwork/1640934414001/Skelos-onminimum-Wage>.

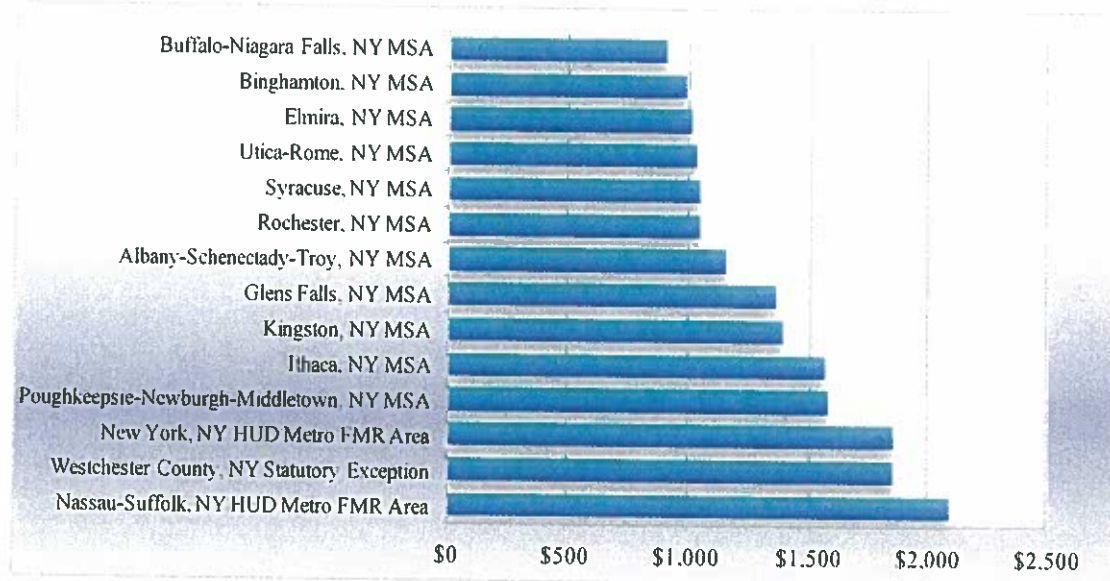
¹³ Dalmat, D.M. "Bringing Economic Justice Closer to Home: The Legal Viability of Local Minimum Wage Laws Under Home Rule." *Columbia Journal of Law and Social Problems*. 11/9/2005. Pp. 93-147. Available at http://www.columbia.edu/cu/jlsp/pdf/Spring%202006/Dalmat_Final.pdf.

¹⁴ "What a Family of Four Would Need to Earn in Selected Urban Areas to Have Purchasing Power Equal to 400% of the U.S. Federal Poverty Level (\$92,200)." The Henry J. Kaiser Family Foundation. Available at <http://kff.org/other/state-indicator/cost-of-living-variation/>.

¹⁵ http://www.huduser.org/portal/datasets/fmr/fmrs/FY2014_code/2014state_summary.odn

apartment in Allegany County going for only 39.7 percent of what it would cost in Suffolk County.¹⁶

Figure 2



The federal government has recently begun to examine whether regional variations should be taken into account with regard to the application of federal benefit programs. Generally, eligibility criteria for such programs are not adjusted for local costs of living in the contiguous 48 states, varying only for Alaska and Hawaii. But with the implementation of the Affordable Care Act, Congress requested that the Department of Health and Human Services (HHS) "...conduct a study to examine the feasibility and implication of adjusting the application of the Federal poverty level... for different geographic areas so as to reflect the variations in cost-of-living among different areas within the United States."¹⁷

While developing definitive data illustrating these variations in detail is a massive undertaking, and results would differ depending on the criteria used in determining local and regional costs, a recent analysis by the Urban Institute reinforces what more fragmented data demonstrates, and what most New Yorkers understand intuitively. It costs more to live in New York City and Long Island than it does in the Western part of the state.¹⁸ The Institute's analysis pulls together methodologies used by various agencies to determine how far various regions in the country deviate from the current one-size-fits-all federal poverty

¹⁶ http://www.huduser.org/portal/datasets/fmr/fmrs/FY2014_code/2014state_summary.odn

¹⁷ Public Law 111-148, Patient Protection and Affordable Care Act of 2010 added by section 1015(f) of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (together referred to as the "Affordable Care Act (ACA)").

¹⁸ Dubay, L., Wheaton, L. and Zedlewski, S. "Geographic Variation in the Cost of Living: Implications for the Poverty Guidelines and Program Eligibility." Urban Institute, Washington D.C. Available at <http://aspe.hhs.gov/hsp/14/GeographicVariation/UrbanGeographicVariationAppendices.pdf>.

guidelines. A general estimate for New York is presented in Table 1, showing the deviation from federal poverty guidelines for the state as a whole, and various regions in the state.¹⁹

Table 1

New York State	SPM adjustment	RPP adjustment
State-level adjustment	8.4%	14.1%
Metropolitan Statistical Area-level Adjustment		
Albany-Schenectady-Troy	2.0%	-0.2%
Buffalo-Niagara Falls	-9.0%	-4.5%
New York-Northern New Jersey-LI, NY-NJ-PA	17.0%	19.4%
Poughkeepsie-Newburgh-Middletown	15.0%	21.1%
Syracuse	-6.0%	-3.2%
Utica-Rome	-12.0%	-5.5%
Non-metropolitan NY	-10.3%	-4.4%

Thus, while housing (SPM) and goods and services (RPP) should be adjusted upward from the federal poverty guidelines in the New York City-Long Island regions by 17% and 19.4%, respectively, they are considerably lower in the Utica-Rome area and non-metropolitan New York as a whole. These regional deviations from the single standard of the federal poverty guidelines are reflections of cost of living variations within the state. It follows that a single, standardized minimum wage would increase or decrease with regard to purchasing power, depending on the geographic region - in short, \$8.00 an hour goes much farther in Utica than it does in New York City. It also follows that, with its proven internal regional variations in the cost of living, localities should be able to adjust their local minimum wage to reflect those differences.

2. The General Solution

Unlike the states under the federal constitution, local governments within states do not necessarily have inherent sovereign powers. Whatever powers they do have are by virtue of the delegation of power by the state, either through the state constitution, state statute, or common law. And because states vary on the degree of autonomy from state power they confer upon localities, there is no uniformity with regard to the ability of localities across the country to establish a local minimum wage.²⁰ In some states, existing law allows for higher local minimum wages, and localities have taken advantage of that ability.

In November of 2013, Montgomery County raised its rate. The Montgomery bill increases the wage in annual steps to \$8.40 in October 2014, \$9.55 in 2015, \$10.75 in 2016 and \$11.50 in 2017.²¹ Prince George's County followed suit the following day, approving a

¹⁹ The Supplemental Poverty Measure (SPM) is used by the Bureau of the Census and other agencies to adjust for regional variations in housing costs. Regional Price Parities (RPP) are published by the Bureau of Economic Analysis (BEA) and reflect a full market basket of goods and services purchased by households.

²⁰ Dalmat, D.M. "Bringing Economic Justice Closer to Home: The Legal Viability of Local Minimum Wage Laws Under Home Rule." *Columbia Journal of Law and Social Problems*. 11/9/2005. P. 101. Available at http://www.columbia.edu/cu/jlsp/pdf/Spring%202006/Dalmat_Final.pdf.

²¹ Turque, B. "Montgomery Council votes to increase minimum wage to \$11.50 by 2017." *Washington Post*. 11/24/2013. Available at http://www.washingtonpost.com/local/maryland-news/montgomery-council-votes-to-increase-minimum-wage/2013/11/26/ecc295c2-56ee-11e3-ba82-16ed03681809_story.html.

similar measure that would increase the hourly rate to \$11.50 by 2017.²² Within a week, the District of Columbia City Council unanimously endorsed an \$11.50 per hour rate, completing a rare act of regional cooperation with the Maryland suburbs.²³

In New Mexico, Albuquerque raised its minimum wage from \$7.50 per hour to \$8.50 per hour, effective at the first of this year, with a cost-of-living (COL) adjustment beginning on Jan. 1, 2014, and each year thereafter, rounded to the nearest multiple of five cents.²⁴ When Santa Fe increased its minimum wage to \$10.29 per hour in March of 2012, it was the highest local wage requirement in the country.²⁵ In California, the rate in San Jose is \$10 per hour,²⁶ and in San Francisco, where a local minimum wage has been in effect for more than ten years, the rate is \$10.74.²⁷ And in Washington state, the small city of SeaTac voted to raise the its minimum wage for hospitality and transportation workers in and near Seattle-Tacoma International Airport to \$15 per hour. The current minimum wage in Washington State is \$9.19.²⁸

In essence, the actions of these municipalities and others like them represent a growing national trend, whereby localities recognize that allowing employers to legally cap what they pay low-wage workers is detrimental to the local economy. Contrary to arguments that such local minimum wage laws will destabilize broader state economies, resulting in corporate flight from high-wage regions and consequential job loss, the evidence shows just the opposite. Rather than job loss, Santa Fe has the lowest unemployment of any metro area in the New Mexico, and is seeing small businesses create jobs at a greater pace than ever before.²⁹ In San Francisco, comparisons with neighboring counties indicate that labor standards policies did not affect overall employment - the employment lines for the city and surrounding areas have been roughly parallel since the policy was implemented ten years ago, with overall employment in both areas going down during recessions and up during expansions. What's more, higher rates for lower-wage workers increased retention rates among airport, restaurant, and homecare workers; improved productivity and performance; and resulted in only small increases in prices in the affected industries.³⁰ For both cities, the

²² Lazo, L. "Prince George's votes to raise minimum wage." *Washington Post*. 11/27/2013. Available at http://www.washingtonpost.com/local/trafficandcommuting/prince-georges-county-council-set-to-vote-wednesday-on-minimum-wage-increase/2013/11/27/170d6fc2-56f0-11e3-8304-caf30787c0a9_story.html.

²³ Davis, A.C. "D.C. Council backs \$11.50 minimum wage." *Washington Post*. 12/3/2013. Available at http://www.washingtonpost.com/local/dc-politics/dc-council-to-vote-on-1150-minimum-wage/2013/12/03/317d68b8-5b72-11e3-a66d-156b463c78aa_story.html.

²⁴ "N.M.: Albuquerque Voters Pass Increase to Minimum Wage." Available at <http://www.shrm.org/legalissues/stateandlocalresources/pages/nm-albuquerque-increase-minimum-wage.aspx#sthash.FTv120sC.dpuf>.

²⁵ Pollon, Z. "Santa Fe, N.M., to have nation's highest minimum wage." *Reuters*. 2/21/2012. Available at <http://www.reuters.com/article/2012/01/27/us-minimum-wage-santa-fe-idUSTRE80Q24K20120127>.

²⁶ Woolfolk, J. "Minimum wage: California, U.S., other cities." *San Jose Mercury News*. 3/10/2013. Available at http://www.mercurynews.com/ci_22752697/san-jose-joins-other-major-cities-hiking-minimum.

²⁷ Thompson, L. "Studies look at what happened when cities raised minimum wage." *Seattle Times*. 3/12/2014. Available at http://seattletimes.com/html/localnews/2023116005_wageimpactsxml.html.

²⁸ Fox, E.J. "Washington city votes to raise minimum wage to \$15." *CNN Money*. Available at <http://money.cnn.com/2013/11/06/news/economy/minimum-wage-seatac-new-jersey/>.

²⁹ "Santa Fe Mayor David Coss Delivers Annual State of the City Address." Available at <http://www.santafe.com/article/santa-fe-mayor-david-coss-delivers-annual-state-of-the-city-address#sthash.G0Sblvp2.A91QMEpb.dpuf>.

³⁰ Reich, M., Jacobs, K., and Deitz, M. *When Mandates Work: Raising Labor Standards at the Local Level*. Institute for Research on Labor and Employment, University of California at Berkeley Labor Center. UC Press, 2014. Summary

experiences of the fast food, food services, retail, and other low-wage support the view that citywide minimum wages can raise the earnings of low-wage workers, without a discernible impact on their employment.³¹

3. *The New York Statutory Prohibition*

New York, however, is one of those states in which state law does not permit localities to enact their own minimum wage above the state mandated rate. This prohibition comes through a 1962 court ruling that such a local option is inconsistent with Article 19 (§§ 650-665) of the NYS Labor Law - also called the Minimum Wage Act. In *Wholesale Laundry Board of Trade, Inc. v. City of New York*, the Appellate Division of the Supreme Court of the State of New York found that a local New York City law³² was in violation of the Act because 1) “where the extension of the principle of the State law by means of the local law results in a situation where what would be permissible under the State law becomes a violation of the local law, the latter law is unauthorized,” and 2) it is entirely clear that the State law indicates a purpose to occupy the entire field. And where that is found, local laws are prohibited.³³ In a 4-3 decision, the ruling of the Appellate Division was upheld by the Court of Appeals in 1963.³⁴

Despite vast disparities in general living costs across the state, the case prohibits localities from establishing a minimum wage above the state mandated level. In August of 2013, the New York State Supreme Court cited *Wholesale Laundry* in its invalidation of New York City’s prevailing wage law,³⁵ finding that it, too, conflicted with the state’s Minimum Wage Law. The law, adopted by the City Council over then Mayor Michael Bloomberg’s veto in May 2012, required businesses that lease space to the city or receive city subsidies to pay building service workers prevailing wages. In his explaining decision, Judge Geoffrey Wright expressed “great compunction” in his ruling, writing:

“This court believes that the prevailing wage law could benefit the people of New York and does not see wisdom in the mayor’s zeal for the possibility of welcoming to New York City a business that would pay its building service employees less than the prevailing wage... whatever my sympathies, the weight of precedent was clearly on the administration’s side..”³⁶

of findings available at <http://www.irle.berkeley.edu/publications/when-mandates-work/when-mandates-work-slides.pdf>.

³¹ Schmitt, J. and Rosnick, D. *The Wage and Employment Impact of Minimum-Wage Laws in Three Cities*. The Center for Economic Policy Research, March, 2011. Available at <http://www.cepr.net/documents/publications/min-wage-2011-03.pdf>.

³² Local Laws 1962, No. 59 of City of New York

³³ http://www.leagle.com/decision/196234417AD2d327_1262.xml/WHOLESALE%20LAUNDRY%20BD.%20v.%20CITY%20OF%20N.%20Y.

³⁴ http://www.leagle.com/decision/1963101012NY2d998_2662

³⁵ Local Law 2012/027. A Local Law to amend the administrative code of the city of New York in relation to establishing a prevailing wage requirement for building service employees in city leased or financially assisted facilities.

³⁶ Taylor, K. “Court Strikes Down New York City’s ‘Prevailing Wage’ Law.” *New York Times*, 8/5/2013. Available at <http://www.nytimes.com/2013/08/06/nyregion/court-strikes-down-new-york-citys-prevailing-wage-law.html>.

In addition to political opposition from business groups and their captured advocates in the New York State Legislature, *Wholesale Laundry* was also the primary legal obstacle to New York City Mayor Bill DeBlasio's push to bring the City in line with San Francisco, Sante Fe, Washington, D.C., and other cities by establishing a city-wide minimum wage above the current state level.³⁷

4. *The Need for the Local Option*

In short, Judge Wright, confounded by Bloomberg's opposition to a sensible public policy initiative, publicly recognized that the existing statute and subsequent case law prevented him from making a ruling that he felt would be in the interests of the City's working poor. His perception can be applied state-wide. While New York's recovery from the Great Recession, measured in the creation of new jobs, has been steady, employment growth during the early recovery has been heavily concentrated in lower-wage industries and occupations.³⁸ In 2013, 37 percent of New Yorkers state-wide were paid low-wages.³⁹ And while the modest increases in the minimum wage contained in last year's budget may, by some, be considered adequate in Allegany County, they fall woefully short for workers on Long Island, the New York metro area, and Ithaca. To address this diversity, local municipalities in New York must be able to impose wage standards that reflect local costs. If they cannot, those living on the very margins of the active workforce in high-cost areas will continue to fall further behind, relying increasingly on public assistance for survival.

IV. Conclusion

In recognition of the problems with the minimum wage increase passed in the 2013-14 State Budget, Senate Democrats sponsor several bills that would remedy the law's shortcomings, ranging from accelerating the increase to \$9.00 per hour, to repealing the MWRC, to linking the new wage to inflation so we won't be revisiting the issue in just a few years.

The most important of the proposed policy changes, however, is language amending the state Labor Law to unequivocally eliminate the state's pre-emptive interest regarding local minimum wage standards. The Democratic proposal would override any other provision of state law that would prohibit the adoption by any county, city, town, village, or public benefit corporation of a local minimum wage. Only then can New York join other progressive states that embrace the diversity of their economies by ensuring that low-wage workers in all parts of the state receive adequate compensation for their labor. It is time we start returning the responsibility for adequate compensation from the taxpayers to the private sector.

³⁷ Grynbaum, M. and Semple, K. "De Blasio Plans a Minimum Wage and City ID Cards." *New York Times*. 2/10/2014. Available at <http://www.nytimes.com/2014/02/11/nyregion/de-blasio-state-of-the-city-speech.html>.

³⁸ National Employment Law Project (NELP). "The Low-Wage Recovery: Industry Employment and Wages Four Years into the Recovery." April 2014. Available at <http://www.nelp.org/page/-/Reports/Low-Wage-Recovery-Industry-Employment-Wages-2014-Report.pdf?nocdn=1>.

³⁹ National Employment Law Project (NELP) and Fiscal Policy Institute (FPI). "Why New York State Should Let Cities and Counties Enact Higher Local Minimum Wages." February 2014.